

JUN 20 2023

PETER A. MOORE, JR., CLERK  
 US DISTRICT COURT, EDNC  
 BY *[Signature]* DEP CLK Page 2

PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF  
 HABEAS CORPUS BY A PERSON IN STATE CUSTODY

|  |                             |
|--|-----------------------------|
| United States District Court   | District                    |
| Name (under which you were convicted):<br><b>CHARLES ANTHONY BALL</b>  | Docket or Case No.:         |
| Place of Confinement <b>WARREN CORRECTIONAL</b>  | Prisoner No. <b>1291874</b> |
| Petitioner (include the name under which you were convicted)      Respondent (authorized person having custody of petitioner)<br><br><b>CHARLES ANTHONY BALL v. SHANTICIA HAWKINS<br/>(WARDEN)</b> |                             |
| The Attorney General of the State of <b>NORTH CAROLINA</b>   |                             |

PETITION

1. (a) Name and location of court that entered the judgment of conviction you are challenging: HENDERSON  
COUNTY SUPERIOR COURT IN HENDERSONVILLE, NC
- (b) Criminal docket or case number (if you know): 09 CRS 52010, 09 CRS 52295
2. (a) Date of the judgment of conviction (if you know): Nov. 4, 2011  
       (b) Date of sentencing: NOV. 4, 2011
3. Length of sentence: LIFE WITHOUT PAROLE, PLUS 73 TO 97 MONTHS
4. In this case, were you convicted on more than one count or of more than one crime? Yes  No
5. Identify all crimes of which you were convicted and sentenced in this case: 1) FIRST DEGREE MURDER  
AND 2) ASSAULT WITH A DEADLY WEAPON WITH INTENT TO KILL INFlicting  
SERIOUS INJURY.
6. (a) What was your plea? (Check one)
 

|  |   |
|--|---|
| (1) Not guilty <input checked="" type="checkbox"/> | (3) Nolo contendere (no contest) <input type="checkbox"/> |
| (2) Guilty <input type="checkbox"/>                | (4) Insanity plea <input type="checkbox"/>                |

 (b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to?

(c) If you went to trial, what kind of trial did you have? (Check one)

Jury  Judge only

7. Did you testify at a pretrial hearing, trial, or a posttrial hearing?

Yes  No  I said I wanted to, but was not allowed to do so.

8. Did you appeal from the judgment of conviction?

Yes  No

9. If you did appeal, answer the following:

(a) Name of court NORTH CAROLINA COURT OF APPEALS

(b) Docket or case number (if you know): CJA 12-610

(c) Result AFFIRMED TRIAL COURT RULING

(d) Date of result (if you know): 1-15-2013

(e) Citation to the case (if you know): 225 NC App 265 (2013 WL 151011)

(f) Grounds raised: 1) IMPROPER JURY INSTRUCTIONS, 2) INSUFFICIENT EVIDENCE FOR FELONY MURDER, 3) INSUFFICIENT EVIDENCE FOR AWDWIKISI

(g) Did you seek further review by a higher state court? Yes  No

If yes, answer the following:

(1) Name of court NORTH CAROLINA SUPREME COURT

(2) Docket or case number (if you know): 102 P13

(3) Result DENIED

(4) Date of result (if you know): 4-15-2013

(5) Citation to the case (if you know): 739 SE 2d 856

(6) Grounds raised: DON'T RECALL AND DON'T HAVE FUNDS FOR A COPY FROM COURTS, BUT I BELIEVE I SIMPLY ASKED NC SUPREME COURT TO REVIEW DECISION OF NC COURT OF APPEALS, SINCE MY CASE WAS ORIGINALLY CAPITAL CHARGE.

(h) Did you file a petition for certiorari in the United States Supreme Court? Yes  No  I did not know that I could

If yes, answer the following:

(1) Docket or case number (if you know): \_\_\_\_\_



1) THEREFORE, PETITIONER REQUESTED REMOVAL OF DA DIERMUIK DUE TO WILLFUL MISCONDUCT AND CRIMINAL BEHAVIOR THAT BROUGHT THE JUSTICE SYSTEM INTO DISREPUTE. 2) AND REQUESTED OVERTURNING PETITIONER'S CONVICTION DUE TO DA DIERMUIK'S MISCONDUCT WITHIN HIS CASE, CONDUCT THAT VIOLATED U.S AND NC CONSTITUTIONAL RIGHTS TO FAIR TRIAL, DUE PROCESS, AND EQUAL PROTECTION UNDER THE LAW.

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes  No

(7) Result DENIED

(8) Date of result (if you know): NOV. 7, 2022

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court WARREN COUNTY SUPERIOR COURT

(2) Docket or case number (if you know): 23 R 9

(3) Date of filing (if you know): JAN 1, 2023

(4) Nature of the proceeding: NC STATE-LEVEL WRIT OF HABEAS CORPUS

(5) Grounds raised: 1) IMPRISONMENT OF PETITIONER IS ILLEGAL, AS JUDGMENTS AND CONVICTION TAINTED BY CORRUPT AND ILLEGAL ACTIONS OF DISTRICT ATTORNEY'S OFFICE AND SHERIFF'S DEPT. 2) BIASED JUDGE (RUINED TO HAVE RELATIONSHIP WITH DA) REFUSED TO RECUSE HIMSELF WHEN HIS ABILITY TO BE IMPARTIAL WAS QUESTIONABLE. 3) DUE PROCESS RIGHTS VIOLATED IN THE ABOVE STATED GROUNDS.

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes  No

(7) Result DENIED AND DISMISSED

(8) Date of result (if you know): JAN 10, 2023

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: Yes  No

(2) Second petition: Yes  No

(3) Third petition: Yes  No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition you may be barred from presenting additional grounds at a later date.

GROUND ONE: PETITIONER IS IN CUSTODY DUE TO PROSECUTOR'S CUMULATIVE AND REPETITIVE VIOLATIONS OF US CONSTITUTIONAL RIGHTS TO DUE PROCESS, FAIR TRIAL, AND EQUAL PROTECTION, RESULTING IN A CONVICTION OBTAINED BY PROSECUTOR'S ILLEGAL AND UNETHICAL ACTIONS

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim):

PROSECUTOR CAUGHT TAMPERING WITH EVIDENCE IN ORDER TO MISREPRESENT AND WITHHOLD EXONERATORY EVIDENCE; CAUGHT WITH AN ASSISTANT COACHING STATE'S MAIN WITNESS DURING TRIAL; KNOWINGLY USED ILLEGALLY OBTAINED EVIDENCE AND PERJURED TESTIMONY; CAUGHT WITH COPIES OF ATTORNEY-CLIENT PRIVILEGED COMMUNICATION; KNOWINGLY VIOLATED RIGHT OF CONFRONTATION; AND USED FABRICATED EVIDENCE IN TRIAL WITHOUT PROCEDURALLY ENTERING IT INTO EVIDENCE FIRST, KNOWING IT WAS FALSE.

(b) If you did not exhaust your state remedies on Ground One, explain why:

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(c) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes  No

(2) If you did not raise this issue in your direct appeal, explain why: FACTUAL EVIDENCE OF RAMPANT CORRUPTION NOT YET EXPOSED, FROM WITHIN HENDERSON COUNTY PUBLIC OFFICIALS.

(d) Post Conviction Proceedings:

(1) Did you raise this issue through a post conviction motion or petition for habeas corpus in a state trial court? Yes  No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: 7A-66 PETITION AND AFFIDAVIT

Name and location of the court where the motion or petition was filed: HENDERSON COUNTY  
SUPERIOR COURT OF HENDERSONVILLE, NC

Docket or case number (if you know): TREATED AS CRIMINAL CASE #CRS 52010, 52295

Date of the court's decision: SEPT. 21, 2022

Result (attach a copy of the court's opinion or order, if available): DENIED, BY A BIASED JUDGE THAT REPLIED TO RECUSE HIMSELF, LATER INVESTIGATED FOR COVERING UP CORRUPTION.

(3) Did you receive a hearing on your motion or petition?

Yes  No

(4) Did you appeal from the denial of your motion or petition?

Yes  No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes  No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: WARREN COUNTY SUPERIOR COURT IN WARRENTON, NC

Docket or case number (if you know): 23 R9

Date of the court's decision: JAN 10, 2023

Result (attach a copy of the court's opinion or order, if available): DENIED AND DISMISSED

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: FILED PETITION FOR WRIT OF CERTIORARI, PETITION FOR REHEARING IN NC COURT OF APPEALS, AND PETITION FOR DISCRETIONARY REVIEW IN NC SUPREME COURT.

GROUND TWO: A BIASED COUNTY COURT JUDGE VIOLATED PETITIONER'S U.S CONSTITUTIONAL RIGHTS TO DUE PROCESS, FAIR AND EQUAL JUSTICE BY REFUSING TO HOLD CORRUPT PROSECUTOR ACCOUNTABLE AND BY ALLOWING ILLEGALLY OBTAINED CONVICTION TO STAND.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim):

WHILE PETITIONER WAS SEEKING TO EXHAUST STATE REMEDIES, THIS JUDGE REFUSED A REQUEST TO RECUSE HIMSELF, DUE TO HIS LACK OF IMPARTIALITY AND RUMORED RELATIONSHIP WITH CORRUPT PROSECUTOR. BY FAILING TO AVOID THIS CONFLICT OF INTEREST, THE JUDGE RENDERED A BIASED RULING,

RULING, THEREBY IMPACTING PUBLIC CONFIDENCE IN THE COURTS OF LAW. THIS JUDGE HAS BEEN INVESTIGATED BY NC JUDICIAL STANDARDS COMMISSION FOR COVERING UP THIS PROSECUTOR'S CORRUPTION.

(b) If you did not exhaust your state remedies on Ground Two, explain why:

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(c) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes  No

(2) If you did not raise this issue in your direct appeal, explain why: DID NOT OCCUR UNTIL NOV. 2022, ALMOST 10 YEARS AFTER DIRECT APPEAL WAS OVER, DURING COLLATERAL ATTACK (7A-66 PETITION).

(d) Post Conviction Proceedings:

(1) Did you raise this issue through a post conviction motion or petition for habeas corpus in a state trial court?

Yes  No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: STATE OF NORTH CAROLINA HABEAS CORPUS

Name and location of the court where the motion or petition was filed: Warren County Superior Court in Warrenton, NC

Docket or case number (if you know): 23 R9

Date of the court's decision: JAN. 10, 2023

Result (attach a copy of the court's opinion or order, if available): DENIED AND DISMISSED

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(3) Did you receive a hearing on your motion or petition?

Yes  No

(4) Did you appeal from the denial of your motion or petition?

Yes  No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes  No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: NC Court of Appeals in Raleigh, NC

Docket or case number (if you know): P23-163

Date of the court's decision: APRIL 28, 2023

Result (attach a copy of the court's opinion or order, if available): DENIED

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

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(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two: PETITIONED FOR A REHEARING IN NC COURT OF APPEALS, AND A PETITION FOR DISCRETIONARY REVIEW IN NC SUPREME COURT.

GROUND THREE: NO PRIOR PETITION EVER RESOLVED THE MERITORIOUS CLAIMS, THUS IT IS DEBATABLE WHETHER THIS CLAIM OF NEWLY DISCOVERED EVIDENCE SHOULD BE CONSIDERED AS A SECOND, OR SUCCESSIVE, PETITION, OR REVIEWED DE NOVO.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim):  
1) THE WILLFUL MISCONDUCT CASE WHICH EXPOSED THE OTHER HENDERSON COUNTY CORRUPTION CASES TO THE PUBLIC, DID NOT EXIST WHEN ANY PRIOR PETITION WAS FILED, THUS THE FACTS COULD NOT HAVE BEEN DISCOVERED SOONER. ON 8-15-22, PETITIONER'S MINT MOVED SAID ARTICLES TO PETITIONER UPON WHICH THE 7A-66 WAS FILED.  
2) PRIOR PETITION 1:16-CV-45-FDW DEEMED UNTIMELY FILED ALTHOUGH PRISON LOST ORIGINAL, TIMELY PETITION, FORCING A REWRITE. PRIOR PETITION 1:18-CV-91-FDW WAS ORIGINALLY A RULE 60(b) MOTION 5:18-HC-2062-FL THAT THE COURT TOLD PETITIONER TO ADD HABEAS CORPUS TO, THEN DISMISSED WITHOUT PREJUDICE AS MIXED RULE 60/ HABEAS CORPUS, THUS NO MERITS WERE EVER ADJUDICATED IN ANY PRIOR PETITION.

(b) If you did not exhaust your state remedies on Ground Three, explain why: NOT STATE JURISDICTION.

(c) Direct Appeal of Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes  No

(2) If you did not raise this issue in your direct appeal, explain why: DID NOT YET EXIST, AND IS A FEDERAL LEVEL CLAIM.

(d) Post Conviction Proceedings:

(1) Did you raise this issue through a post conviction motion or petition for habeas corpus in a state trial court? Yes  No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available):  
\_\_\_\_\_  
\_\_\_\_\_

(3) Did you receive a hearing on your motion or petition?

Yes  No

(4) Did you appeal from the denial of your motion or petition?

Yes  No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes  No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available):  
\_\_\_\_\_  
\_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: \_\_\_\_\_

GROUND FOUR: \_\_\_\_\_

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b) If you did not exhaust your state remedies on Ground Four, explain why:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(c) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes  No

(2) If you did not raise this issue in your direct appeal, explain why:  
\_\_\_\_\_

(d) Post Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes  No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion or petition?

Yes  No

(4) Did you appeal from the denial of your motion or petition?

Yes  No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes  No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

13. Please answer these additional questions about the petition you are filing:

(a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? Yes  No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? Yes  No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available.

1) US Dist. Crt. W-NC 1:16-CV-45-FDW HABEAS CORPUS 10-4-16 UNTIMELY FILED

2) US Dist. Crt. E-NC 5:18-HC-02062-FL TRANSFERRED TO US Dist. Crt. W-NC 1:18-cv-91-FDW ORIGINALLY FILED AS RULE 60(b)

MTN., BUT ASKED BY COURT TO ADD HC, THEN 11-7-18 DISMISSED WITHOUT PREJUDICE AS MIXED RULE 60/H.C.

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? Yes  No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

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16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: HENDERSON COUNTY PUBLIC DEFENDER'S OFFICE

(b) At arraignment and plea:

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(c) At trial: PAUL WELCH AND BETH STANG

HENDERSON COUNTY PUBLIC DEFENDER'S OFFICE

(d) At sentencing: PAUL WELCH AND BETH STANG

HENDERSON COUNTY PUBLIC DEFENDER'S OFFICE

(e) On appeal: MICHAEL CASTERLINE

(f) In any post conviction proceeding: JACK STEWART

(g) On appeal from any ruling against you in a post conviction proceeding: PRO SE

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes  No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

HENDERSON COUNTY SUPERIOR COURT IN HENDERSONVILLE, NC

(b) Give the date the other sentence was imposed: 4-20-'09

(c) Give the length of the other sentence: 73 TO 97 MONTHS

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? Yes  No

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.\* THE PETITIONER BELIEVES THE STATE CLAIMED FINAL JUDGMENT OVER 10 YEARS AGO, BUT PETITIONER HERIN CONTENDS THAT SAID JUDGMENT IS INVALID, AS THE NEWLY DISCOVERED AND IRREFUTABLE EVIDENCE OF PROSECUTOR MISCONDUCT INDUBITABLY INVALIDATES THE PETITIONER'S ILLEGALLY AND UNJUSTICILY OBTAINED JUDGMENT AND CONVICTION. FOR OVER 14 YEARS, THE PETITIONER HAS PROCLAIMED HIS INNOCENCE OF THE ORIGINAL CHARGES, AND LATER THE CONVICTION, ON THIS HIS FIRST AND ONLY INCARCERATION.

\* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that

(1) A one year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—

Therefore, petitioner asks that the Court grant the following relief VACATE ILLEGAL JUDGMENT AND CONVICTION; AND/OR REVERSE AND REMAND TO LOWER COURT FOR PRAYER ADJUDICATION ON THE MERITS.

or any other relief to which petitioner may be entitled.

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Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on June 1<sup>st</sup>, 2023 (month, date, year).

Executed (signed) on June 1<sup>st</sup>, 2023 (date).

Charles Anthony Bell

Signature of Petitioner

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\*(...continued)

- (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
- (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
- (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

(2) The time during which a properly filed application for State post conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limit

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IN FORMA PAUPERIS DECLARATION  
US DISTRICT COURT FOR EASTERN NC  
(Insert appropriate court)

\* \* \* \*

ATTACHED IFP